

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

JASPER PHILLIPS,) Cause No. CV 09-28-H-DWM-RKS
)
Petitioner,)
)
vs.) FINDINGS AND RECOMMENDATION
) OF U.S. MAGISTRATE JUDGE
STATE OF MONTANA,)
)
Respondent.)

On May 28, 2009, Petitioner Jasper Phillips moved to proceed in forma pauperis with this action for writ of habeas corpus under 28 U.S.C. § 2254. Petitioner is a state prisoner proceeding pro se.

On June 1, 2009, Petitioner was ordered to complete a new motion to proceed in forma pauperis. The original motion was not notarized, despite the ready availability of notary services at the prison. In addition, the Court required him to submit a statement of his inmate trust account covering a six-month period.

On June 25, 2009, the Court received Petitioner's new motion. While it is notarized, Petitioner did not complete it. Mot. for Leave (doc. 7) at 2-4 ¶¶ 4-11. Petitioner was advised that failure to timely comply with the Court's previous order might result in a recommendation that his Petition be dismissed.

Petitioner's failure to complete the standard forma pauperis motion means that the Court has no sworn and notarized statement from him showing both that he personally completed the form and that he qualifies for forma pauperis status. It is not difficult to complete the form motion. Petitioner's motion should be denied and he should be given ten business days to pay the \$5.00 filing fee.

Petitioner is not entitled to a ten-day period of time to object to the Findings and Recommendation. Minetti v. Port of Seattle, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam).

Based on the foregoing, the Court enters the following:

RECOMMENDATION

1. The Clerk of Court shall immediately forward this Recommendation to U.S. District Judge Donald W. Molloy for his review.
2. Petitioner's motions to proceed in forma pauperis (docs. 2, 7) should be DENIED.

3. Petitioner should be given ten business days to pay the \$5.00 filing fee.
4. Pursuant to D. Mont. L.R. 3.1(d)(3), the Clerk of Court should be directed to enter a judgment of dismissal if Petitioner fails to pay the filing fee on time.
Petitioner must immediately inform the Court of any change in his mailing address. Failure to do so may result in dismissal of his case without notice to him.

DATED this 30th day of June, 2009.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge